



The Florida Senate

Interim Project Report 2000-41

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Committee on Fiscal Policy

Senator Roberto Casas, Chairman

IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE TRUST FUND REVIEW PROCESS

SUMMARY

The trust fund process is used by the Legislature to review trust funds for re-creation, modification, and termination. On November 4, 1992, the voters approved Amendment 4 to the Florida Constitution. Among many other reforms, the amendment specifically addressed trust funds created by the Legislature. Specifically, the amendment terminated most existing state trust funds after a 4-year life span. Several categories of funds were exempt from termination. Prior to the regular session of the Legislature, the agency responsible for administering the trust fund shall recommend to the Legislature whether the trust fund should be allowed to terminate or be re-created. During the 1994, 1995 and 1996 sessions, the Legislature reviewed all state trust funds. The process is currently in the second cycle of review, which means the Legislature is reviewing many of the same trust funds as in previous sessions. A concern with the current process is that more funds are being created than terminated.

The trust fund process is repetitive and time consuming. The process could be made more effective and efficient by improving the quality of the information the Legislature receives, improving the Senate's procedures for documenting and tracking information and simplifying the development and enactment of the trust fund legislation.

BACKGROUND

Pursuant to the provisions of s. 19(f), Article III of the State Constitution, the Governor, Chief Justice, and agencies are required to review all trust funds not otherwise exempt at least once every four years and make recommendations to the Legislature as to whether the fund should be allowed to terminate or be re-created.

Section 19(f), Article III of the Constitution states:

(f) *TRUST FUNDS.*

(1) *No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.*

(2) *State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.*

(3) *Trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Regents, where such trust funds are for auxiliary enterprises and contracts, grants and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the comptroller or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent of fiduciary for individuals, private organizations or other governmental units; and other trust funds authorized by this Constitution, are not subject to the requirements set forth in paragraph (2) of this subsection.*

(4) *All cash balances and income of any trust funds abolished under this subsection shall be deposited into the general revenue fund.*

(5) The provisions of this subsection shall be effective November 4, 1992.

According to s. 215.3206, F. S., excerpted below, each trust fund has to be reviewed for purpose and use to determine its necessity. Modifications to a trust fund may be included in the recommendation to re-create a trust fund. Modifications can be made in the purpose of the trust fund, sources of receipts, and allowable expenditures for the trust fund. If a trust fund is terminated, all cash balances must be deposited into the General Revenue Fund.

215.3206 Trust funds; termination or re-creation.--

(1) Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated, pursuant to the provisions of s. 19(f), Art. III of the State Constitution, or such earlier date as the Legislature may specify, the agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, shall recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created. Each recommendation shall be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund. Recommendations from an agency or the Chief Justice shall be made as a part of the legislative budget request to the Legislature pursuant to s. 216.023. Recommendations from the Governor shall be made as part of the recommended budget presented to the Legislature pursuant to s. 216.162.

(2) If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund shall be deposited into the General Revenue Fund. The agency or Chief Justice shall pay any outstanding debts of the trust fund as soon as practicable, and the Comptroller shall close out and remove the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities. No appropriation or budget amendment shall be construed to authorize any encumbrance of funds from a trust fund

after the date on which the trust fund is terminated or is judicially determined to be invalid.

(3) On or before September 1 of each year, the Comptroller shall submit to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives a list of trust funds that are scheduled to terminate within 12 months after that date and also, beginning September 1, 1996, a list of all trust funds that are exempt from automatic termination pursuant to the provisions of s. 19(f)(3), Art. III of the State Constitution, listing revenues of the trust funds by major revenue category for each of the last 4 fiscal years.

(4) For the purposes of this section, the Governor, Chief Justice, and agencies shall review the trust funds as they are identified by a unique 6-digit code in the State Automated Management Accounting Subsystem (SAMAS) at a level composed of the 2-digit organization level 1, the 1-digit state fund type 2, and the first three digits of the fund identifier. The Governor, Chief Justice, and agencies may also conduct their review and make recommendations concerning accounts within such trust funds.

METHODOLOGY

To obtain information and recommendations for evaluating the trust fund process, ideas were solicited from Senate and House staff to identify procedural problems encountered in prior years. Meetings were held with the Office of the Comptroller to discuss modifications in the Comptroller's annual report. Discussions were also held with bill drafting offices of the House and Senate to agree upon an identical bill format. Meetings and discussions also took place with staff of the Rules Committee and the Secretary of the Senate to develop and simplify the floor process.

FINDINGS

The trust fund review process is a labor intensive effort that is dependent on agency input and information collected from the Office of the Comptroller. The following areas were identified as those in need of enhancement:

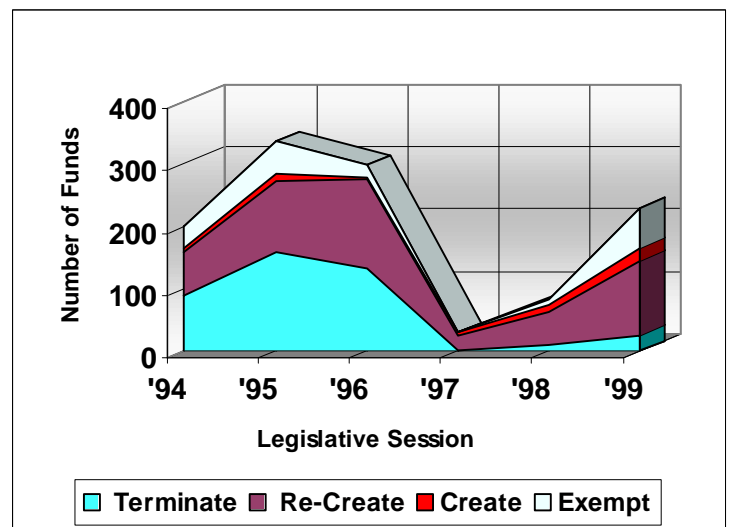
- C Recommendations to the Legislature that come from the agencies are made as part of legislative budget requests pursuant to s. 216.023, F.S. Agencies

prepare their trust fund recommendations using the Schedule 1D form included in the agency budget instructions. Unless the agency specifically asks for each trust fund scheduled for termination to be re-created and the Legislature re-creates it, the trust fund will be abolished four years after its creation, pursuant to requirements of the Constitution. The Schedule 1D form was modified in the agency FY 2000-2001 legislative budget requests to request more specific information. The revisions include requiring the agencies to prepare proposed legislation to enact a new trust fund and to submit an updated list of specific sources of receipts for each fund.

- C Prior to September 1 each year, the Office of the Comptroller submits its annual trust fund report to the Legislature. This report contains a list of trust funds that are scheduled for termination and those that are exempt from automatic termination pursuant to the provisions of s.19(f)(3), Article III of the Constitution. The report also lists revenues of the trust funds by major revenue category for each of the last four fiscal years. In prior years, the Comptroller's annual status report was found to contain inaccuracies and duplication of trust funds. Historically, this file has not been maintained. System requests are currently being programmed to update the report. Over the past year, the Accounting Control and Budgetary Action Section of the Comptroller's Office has been working with agency personnel to zero out balances and transfer remaining cash in abolished trust funds, to improve the accuracy of the Comptroller's file.
- C Proposed legislation should be developed to enact a new trust fund or to make any modifications to existing trust funds. After discussions with staff of the Senate Rules Committee and staff of the House Fiscal Responsibility Council, it was concluded that the bills developed by both houses were not identical in prior years. This resulted in problems with preparation of the trust fund bill calendar. These bills go through the same process as other substantive legislation. Specific planning is necessary to assure coordination with the House on the way these bills will be drafted, referred, heard, reported, voted on, and passed to the other chamber.
- C After the trust fund bills are heard in the Fiscal Policy Committee, they are placed on the calendar to be heard on the Senate floor. The 1999 floor

process was reviewed and found to need improvement. There were 130 bills on Special Order Calendar and time allowed only 60 to be read, therefore more floor time was required on trust fund bills. Members were making motions repeatedly and voting on the trust fund bills separately, when they could be grouped together for one roll call vote. The bills can be read twice to place them on 3rd reading. Trust fund bills requiring amendment can be pulled out and voted on separately. Any member who wants to be recorded voting nay on a particular bill can do so by reporting to the Secretary of the Senate. This would result in more efficient use of time on the Senate floor.

As reflected in the chart below, the volume of trust fund bills is significant. Further, the portion of those bills that terminate trust funds has declined significantly since 1996. Since termination was the intent of the constitutional amendment, reassessment of the current process is timely and appropriate.



RECOMMENDATIONS

1. In the review period from 1997-2002, the Legislature will have reviewed at least 450 trust funds. Based upon the review of the trust fund process currently in place, it is recommended that the Legislature consider passing a joint resolution to amend the Constitution to reduce the workload associated with trust fund reviews.

2. Until the Constitution is amended, it is recommended that the following enhancements be included in the 2000 trust fund review process:

- a. The Schedule 1D form containing agency input has been revised for more accurate information. Staff will determine whether the revisions are suitable or if more revision is necessary.
- b. It is recommended that the staff of the Comptroller's Office continue to update the annual trust fund report and make system program changes as necessary to omit duplication and inaccuracies.
- c. The House and Senate should coordinate the drafting of the bills to ensure that the bills are

identical. This will help ease the process of moving the trust fund bills through both houses.

- d. The trust fund floor procedure can be enhanced in the following ways:

- P Reduce the number of motions necessary
- P Read bills twice for second and third reading
- P Make one roll call vote on bills not requiring amendment
- P Vote on bills with amendments separately

COMMITTEE(S) INVOLVED IN REPORT (*Contact first committee for more information.*)

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MEMBER OVERSIGHT

Senators Roberto Casas and Pat Thomas